tech bites

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A Changed Environment for Pension Scheme Trustees

FOLLOWING the transposition of the IORP II Directive into Irish Law on 21 April 2021 and the implementation of the Pensions Authority's Code of Practice in November 2021, the trustees of occupational pension schemes have seen big changes introduced in relation to what is required of them in terms of an effective system of governance that provides for the prudent management of the scheme(s) they act as trustees for.

It's not all new

Trustees of pension schemes have been in place for many years governing and managing well run pension schemes. In considering what is not new we will look at defined benefit and defined contribution schemes separately.

Defined Benefit

For defined benefit pension schemes, I think it is safe to say that regular trustee meetings happen throughout the year where the trustees are joined by the scheme actuary and the advisors to the scheme at trustee meetings. It is not uncommon for the larger schemes to have quarterly meetings with meeting packs issued, minutes prepared, actions identified, completed, and decisions taken and documented on an ongoing basis. Outsourcing of the key activities under the scheme takes place with appointments made in relation to the scheme actuary, administrator and investment manager(s). The performance of providers is monitored and service agreements put in place. For defined benefit schemes you will also be familiar with employer covenants for the contributions to the scheme, triennial valuations and controls around the investment strategy and de-risking. There is a focus on the financials with the need for a full trustee annual report and fully independently audited accounts. Finally, there was ongoing scrutiny from the regulator where minimum funding standard reports are submitted by the trustees of schemes to the Pensions Authority and the Authority regularly interviewed the individuals on trustee boards to assess the knowledge they had of the scheme they acted as trustee for. All that said there is clearly already a lot of good governance happening for defined benefit schemes with much of it in line with what is detailed in the code of practice.

Defined Contribution

The position is different though when we consider defined contribution pension schemes. It is true to say that for many small schemes the employer may have been acting as trustee and if that was the case then it is very unlikely much would have been happening in the governance space as is currently required under the code of practice. That's not the case for all defined contribution schemes though. Where a professional trustee acted as trustee or for the larger schemes then it is more than likely that trustee meetings would have been taking place. The financials of the schemes had a focus on them for schemes with 100 members or more but smaller schemes were allowed to prepare an alternative (shortened) trustee annual report.

That's a short summary of where we have come from so let's look at what is required now.

What has changed?

The IORP II Directive and the Pensions Authority's code of practice has brought about the greatest changes in the pensions industry over the last 15 years. So what are the more significant changes for trustees?

Clearly it is the requirement to have in place key function holders. Trustees have had to appoint a risk manager and internal audit key function holder. They now have to agree with the key function holders how they will complete their roles with a view to ensuring an improved system of governance for the pension scheme with improved member outcomes.

Trustees also now have to complete structured quarterly monitoring of the scheme administrator as well as quarterly investment performance monitoring. Each year a review of the administrator and investment managers is needed and don't forget the more critical reviews every 3 years.

What should form part of the quarterly monitoring and how does an annual review differ?

We believe the quarterly monitoring of the administrator needs to cover the key areas of the remittance and investment of the pension scheme contributions, disclosure of information to members, benefit payments, options for leavers, retirements and deaths, and regulatory returns and reporting. The annual review needs to consider the learnings from the quarterly monitoring and the trustees may also want to consider compliance sampling as well as a review of service delivered versus the service level agreement in determining if they are happy with the performance of the scheme administrator. A lot to consider.

Other changes include the formal Fitness and Probity regime that has now been implemented where the trustees and key function holders need to prove that they have the necessary skills, experience and qualifications to act in their roles as well as meeting the "proper" requirements. There is also a lot of new policies that the trustees have had to put in place and they need to develop procedures to ensure they follow the policies. The internal audit will look for evidence that policies are being followed so this is another consideration for the trustees.

What challenges are Trustees faced with?

We see the main challenges covering four areas:

- Provision of information
- Managing costs
- Experience of key function holders, and
- Reporting

As mentioned, trustees have to complete quarterly monitoring of the administrator of the pension scheme. We are conscious that the main life offices are currently transitioning a large volume of pension schemes into Master Trusts and the concern is that they may be light on resources to provide the trustees with the information they need to complete their monitoring. We certainly feel that this will be the case for 2023. There is also going to be a challenge of managing the costs of running the scheme. The key function holders will look for information from the service providers to do their job but as trustees we don't want to see this leading to increased costs for the employer. Most schemes at this stage should have made their key function holder appointments but are we going to see the person who was appointed actually complete the work on the scheme. This may prove an issue if key function holders have taken on too many appointments. We also need to wait and see the content of reports from the key function holders and how easy or difficult it is going to be for the trustees to navigate their way through reports and to make improvements as needed.

These are just some of the challenges we see trustees being presented with.

Takeaways for Trustees

In closing I want to leave you with some takeaways:

- Raise the bar for trusteeship
  - Complete a prescribed qualification, or
  - Appoint a Professional Trustee
- Focus on the critical role of Trustees
  "Advisors Advise but Trustees Decide"
- Agree now what's going to form part of the quarterly monitoring and annual review process
- Create a calendar of events for the scheme
- Follow through on actions, evidence and decision making
- Align trustee practices with the role of the key function holders and drive value for money
- Don't forget the members!!